

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

v.

BIG 5 CORP.,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and retaliation, and to provide appropriate relief to Robert Sanders, who was adversely affected by such practices. Plaintiff United States Equal Employment Opportunity Commission (Commission or EEOC) alleges that Defendant Big 5 Corp. subjected Mr. Sanders to a hostile work environment based on his race, Black. The EEOC further alleges that Defendant retaliated against Mr. Sanders for opposing the discriminatory hostile work environment. Plaintiff seeks monetary relief for Mr. Sanders, including pecuniary damages, non-pecuniary compensatory and punitive damages, and injunctive relief.

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JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
3 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of  
4 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) (Title  
5 VII), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

6 2. The employment practices alleged to be unlawful were committed within the  
7 jurisdiction of the United States District Court for the Western District of Washington.  
8

PARTIES

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10 3. Plaintiff is the agency of the United States of America charged with the  
11 administration, interpretation and enforcement of Title VII, and is expressly authorized to bring  
12 this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and 3, and  
13 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

14 4. At all relevant times, Defendant has been a corporation continuously doing  
15 business in the State of Washington and continuously employing at least fifteen (15) employees.  
16

17 5. At all relevant times, Defendant has continuously been an employer engaged in an  
18 industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42  
19 U.S.C. §§ 2000e-(b), (g) and (h).  
20

ADMINISTRATIVE PROCEDURES

21 6. More than thirty (30) days prior to the institution of this lawsuit, Mr. Sanders  
22 filed a charge with the EEOC alleging violations of Title VII by Defendant. On August 25,  
23 2016, the Commission issued to Defendant a Letter of Determination finding reasonable cause  
24 to believe Title VII was violated and inviting Defendant to join with the Commission in  
25

1 informal methods of conciliation to endeavor to eliminate the unlawful employment practices  
2 and to provide appropriate relief. The Commission engaged in communications with  
3 Defendant to provide Defendant the opportunity to remedy the discriminatory practices  
4 described in the Letter of Determination. On November 21, 2016, the Commission issued to  
5 Defendant a Notice of Failure of Conciliation advising Defendant that the Commission was  
6 unable to secure from Defendant a conciliation agreement acceptable to the Commission. All  
7 conditions precedent to the institution of this lawsuit have been fulfilled.

### 8 STATEMENT OF CLAIMS

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10 7. From approximately May 2014, Defendant engaged in unlawful employment  
11 practices at its store facility in Oak Harbor, Washington, in violation of Sections 703(a) and  
12 704(a) of Title VII, 42 U.S.C. § §2000e-2(a) and 2000e-3(a). Defendant subjected Mr. Sanders  
13 to a hostile work environment based on race, Black. Defendant further engaged in unlawful  
14 employment practices by retaliating against Mr. Sanders for opposing the hostile work  
15 environment.

16  
17 8. The practices complained of in Paragraph 7 include, but are not limited to,  
18 Defendant's Store Manager subjecting Mr. Sanders to frequent, offensive, and unwelcome race-  
19 based conduct including: referring to Mr. Sanders as "boy," and "Shadow"; introducing Mr.  
20 Sanders as "Shadow," rather than by his name, to co-workers and customers on his first day of  
21 work; and patting her knee, whistling and calling to Mr. Sanders, "Here, Shadow" while a co-  
22 worker watched and laughed. Co-workers and lower level managers also called Mr. Sanders  
23 racially charged names including "King Kong," "boy" and "spook," commented on his dark skin  
24 color and white teeth, and said he had "the face of a janitor" because he was Black. Another  
25

1 worker told him that nationalities not originating in America should go back where they came  
2 from and criticized Black people that act Black.

3 9. Assistant Managers held up box cutters, threatened to kill Mr. Sanders for calling  
4 in sick and reinforced the threat by saying “we will hang you” and “seriously lynch you”. They  
5 asked him if he was ready to commit suicide and offered assistance when he was ready. A  
6 Management Trainee told Mr. Sanders that his “kind” wasn’t allowed in the stock room of the store  
7 and told him he would die at Big 5 and end up in a river, dead.  
8

9 10. Mr. Sanders attempted to rebuff the managers’ and coworkers’ offensive,  
10 threatening and unwelcome comments, and complained about the harassing conduct to the  
11 District Supervisor. Defendant failed to take prompt or appropriate corrective action to prevent  
12 or remedy the hostile work environment caused by the supervisors’ and co-workers’ offensive,  
13 threatening and unwelcome conduct.  
14

15 11. In retaliation for Mr. Sanders’ complaints about the racially hostile work  
16 environment, Defendant, through the actions of the District Supervisor, Store Manager and  
17 Assistant Managers, denied Mr. Sanders his work breaks, assigned Mr. Sanders more difficult  
18 and less desirable work, and continued to refer to him as “Shadow,” “spook,” “King Kong” and  
19 “boy” when addressing him directly and in front of other employees. Defendant also disciplined  
20 Mr. Sanders unjustly.  
21

22 12. The effect of Defendant’s practices complained of in paragraphs 7-11 above has  
23 been to deprive Mr. Sanders of equal employment opportunities and otherwise adversely affect  
24 his status as an employee.  
25

1           13.     The unlawful employment practices complained of in paragraphs 7-11 above were  
2 intentional.

3           14.     The unlawful employment practices complained of in paragraphs 7-11 above were  
4 done with malice or with reckless indifference to the federally protected rights of Mr. Sanders.

5                               PRAYER FOR RELIEF

6           Wherefore, the EEOC respectfully requests that this Court:

7           A.     Grant a permanent injunction enjoining Defendant, its officers, successors, agents,  
8 assigns, and all persons in active concert or participation with it, from engaging in any  
9 employment practices which discriminate.  
10

11          B.     Order Defendant to institute and carry out policies, practices, and programs which  
12 provide equal employment opportunities for all employees, and which eradicate the effects of its  
13 past and present unlawful employment practices.

14          C.     Order Defendant to make whole Mr. Sanders by providing compensation for past  
15 and future non-pecuniary losses resulting from the unlawful practices complained of in  
16 paragraphs 7-11 above, including without limitation emotional pain, suffering, and loss of  
17 enjoyment of life, in amounts to be determined at trial.  
18

19          D.     Order Defendants to make whole Mr. Sanders by providing compensation for past  
20 and future pecuniary losses resulting from the unlawful employment practices described in  
21 paragraphs 7-11 above, including past and future out-of-pocket expenses, in amounts to be  
22 determined at trial.  
23

24          E.     Order Defendant to pay Mr. Sanders punitive damages for its malicious and  
25 reckless conduct described in paragraphs 7-11 above, in amounts to be determined at trial.

1 F. Grant such further relief as the Court deems necessary and proper in the public  
2 interest.

3 G. Award the EEOC its costs of this action.

4 JURY TRIAL DEMAND

5 The EEOC requests a jury trial on all questions of fact raised by its Complaint.

6  
7 DATED this 20th day of July, 2017.

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